

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

THE PEOPLE,

Plaintiff and Respondent,

v.

HARRY ELLSWORTH CHASE III,

Defendant and Appellant.

F072105

(Super. Ct. No. 15CRAD682745)

OPINION

THE COURT*

APPEAL from a judgment of the Superior Court of Fresno County. Jonathan B. Conklin, Judge.

Jennifer A. Gibson, under appointment by the Court of Appeal, for Defendant and Appellant.

Office of the State Attorney General, Sacramento, California, for Plaintiff and Respondent.

-ooOoo-

* Before Detjen, Acting P.J., Franson, J. and Peña, J.

Appellant Harry Ellsworth Chase III appeals from an order authorizing involuntary administration of psychotropic medication pursuant to *In re Calhoun* (2004) 121 Cal.App.4th 1315 (*Calhoun*)¹. Appellate counsel filed a brief asserting counsel could not identify any arguable issues in the case. (*People v. Wende* (1979) 25 Cal.3d 436.) We agree

On May 28, 2015, the Department of State Hospitals filed a petition for an order to compel involuntary treatment of appellant with psychotropic medication under nonemergency circumstances. Appellant had been diagnosed with borderline personality disorder and other specified paraphilic disorder, coprophilia. His symptoms included a pattern of instability related to fear of abandonment, an unstable sense of self, where he is conflicted between male and female persona, suicidal behavior related to loss of either the male or female persona, a history of self-mutilating behavior which includes infecting his own wounds with his own feces, affect instability and chronic displays of anger. Appellant demonstrated numerous documented instances of anger demonstrating a danger to himself or others, including punching a window, verbal abuse of a nurse, physically threatening staff, kicking a door, and picking up a table and slamming it on the floor. He had injured staff members before by picking them up and throwing them into a wall. He admitted he attempted suicide and had thoughts of harming himself. The petition alleged that, based on appellant's history, without medication appellant was a danger to others and that he is incompetent to refuse medical treatment.

¹ In *Calhoun*, the California Court of Appeal held that “in conformity with the *Qawi* holding concerning MDO’s, we hold ‘that [a Sexually Violent Predator] can be compelled to be treated with antipsychotic medication under the following nonemergency circumstances: (1) he is determined by a court to be incompetent to refuse medical treatment; (2) [he] is determined by a court to be a danger to others within the meaning of ... [Welfare and Institutions Code] section 5300.’ ” (*Calhoun, supra*, 121 Cal.App.4th at p. 1354, quoting *In re Qawi* (2004) 32 Cal.4th 1.)

A hearing on the petition was as held on July 20, 2015. Wade Exum, M.D., who began treating appellant in 2012, was the only witness to testify at the hearing. Dr. Exum testified that appellant's primary diagnosis was borderline personality disorder and that he was also diagnosed with other specified paraphilic disorder, coprophilia. Dr. Exum testified that the protocols for appellant's disorders included treatment with antipsychotic medication, mood stabilizing medication, antidepressant medication, and antianxiety medication.

According to Dr. Exum, appellant admitted that the medications were beneficial to him, and appellant believed that he would "act[] out" if he were not under involuntary medication orders. Dr. Exum testified that, "[Appellant] knows that he would stop taking his medication because that's his pattern and his personality." Dr. Exum believed appellant had limited insight into his disorders. "[H]e understands that he does things that he can't control." Dr. Exum further testified that based on his observations, there was a significant difference in appellant's behavior when he was on and off medications. Off medication, appellant "is intense and irritable and constantly angry." Dr. Exum further explained that because of his disorders, appellant could escalate "to violence at any given time."

At the conclusion of the hearing, the court granted the order to administer involuntary medication to appellant finding that appellant was a danger to others and lacked capacity to make decisions regarding his medication. Specifically, with regard to dangerousness, the court found that on "January 13th, 2015, there was a violent incident which resulted in direct threats or harm to staff. [Dr. Exum] stated they were very profane threats involving kicking a door, picking up a table. It also has been established that Mr. Chase since that time has ... suffered an amputation of the leg. But the doctor testified he does still appear to be mobile." Based on his history and the January 2015, incident, the court concluded that appellant was dangerous within the meaning of Welfare

and Institutions Code section 5300². With regards to its finding regarding medication, the court cited Dr. Exum's testimony that if appellant stopped taking his medication, he would decompensate and would not be able to control his thinking.

On August 5, 2015, appellant filed a notice of appeal. Appellate counsel filed a brief pursuant to *People v. Wende, supra*, 25 Cal.3d 436, raising no arguable issues and asking this court to independently review the record. By a letter dated January 29, 2016, we invited appellant to inform us of any issues he would like this court to address. Appellant did not respond.

Following an independent review of the record, we find that no reasonably arguable factual or legal issues exist.

DISPOSITION

The order compelling involuntary treatment of appellant with psychotropic medication is affirmed.

² Welfare and Institutions Code section 5300 provides, in pertinent part: "At the expiration of the 14-day period of intensive treatment, a person may be confined for further treatment pursuant to the provisions of this article for an additional period, not to exceed 180 days if one of the following exists: [¶] (a) The person has attempted, inflicted, or made a serious threat of substantial physical harm upon the person of another after having been taken into custody, and while in custody, for evaluation and treatment, and who, as a result of mental disorder or mental defect, presents a demonstrated danger of inflicting substantial physical harm upon others."